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MEMORANDUM RECEIVED

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TO: Docket Control Center

FROM: Ernest G. Johnson
Director
Utilities Division

2007 AUG -1 P 4: 33

Arizona Corporation Commission

DOCKETED

AUG -1 2007

AZ CORP COMMISSION
DOCKET CONTROL

DATE: August 1, 2007

DOCKETED BY

NR

RE: MOUNT TIPTON WATER COMPANY, INC. - REQUEST FOR EXTENSION OF
COMPLIANCE DEADLINES (DOCKET NO. W-02105A-03-0303), W-02105A-04-088C

History

In Decision No. 67162, dated August 10, 2004, the Arizona Corporation Commission ("A.C.C." or "Commission") approved the application of Mount Tipton Water Company, Inc. ("Mount Tipton" or "Company") for a rate increase.

As part of Decision No. 67162, the Commission ordered the following:

- A) "That if after 18 months of the effective date of this Decision, the Company has failed to reduce its non-account water below 15 percent, that any new main extension agreements submitted by the Company should be denied until the Company shows that average water loss for two consecutive quarters is below 15 percent."
- B) "That if after 18 months of the effective date of this Decision, the Company finds that water loss can only be reduced to less than 15 percent, but not less than 10 percent, the Company should be required to submit, by December 31, 2005, or prior to its next rate case, whichever comes first, a detailed cost analysis and explanation demonstrating why water loss reduction to less than 10 percent is not cost effective."
- C) "That the Company be required to file quarterly reports with the Director of the Utilities Division that indicate the quantity of water pumped and sold each month during the quarter and the efforts made to reduce water loss, such as the number of leaks repaired, meters replaced, pipeline flushing, etc. That the quarterly report should be based on the calendar year, with the first report being filed within 120 days of the effective date of this Decision."

On July 5, 2007, Mount Tipton docketed a "request for extension" which encompassed each of the above compliance items. The application consisted of two parts - identification of the individual extension items and a large paragraph identifying the numerous office problems the Company has had which it provides as rationale for the extension request. No actual extension

date was proposed in the application nor was there any specific amount of extension time identified. Based on the August 10, 2004 date of the Decision No. 67162, the original due dates for compliance for these items were February 10, 2006 for items A & B and December 10, 2004 for item C.

The attached Company filing identified a number of problems which have contributed to the failure of the Company to comply with the timeframes originally granted by the Commission. Portions of those are shown below:

"Late reports, past due bills, inept office equipment, lack of training and a large turnover in staff make it hard to keep reports current, and accurate. I was hired as an office clerk in September of 2004. The prior employee was fired, and I came into a situation of chaos and no one to train me."

"The Water II operator who completed these reports each year quit, we hired a new employee who had no training. Reports were never completed. That employee soon quit, and we now have a remote operator, who has very little contact with the office. We are on our fifth office clerk, third field operator and we are now looking for our third water II operator since September of 2004."

The application for extension stated that the manager was trying to bring the Company into compliance but that the reports are "nearly impossible" for her to personally complete.

Staff Review

After review of the Company request for extension, including the comments above, Staff was concerned about the Company's ability to adequately address the delinquent compliance requirements of Decision No. 67162. Staff's initial opinion was that there was serious question as to whether there was credible basis for an extension in this matter. None of the Company's rationale for extension (as listed above and in last paragraph of the attached application) presents obstacles or problems that appear to be outside the control of the Company and/or the Board of Directors. In fact, the rationale at the end of the application appears to suggest that the problem could be a lack of organization, cohesion, and/or support from the Board of Directors and the Company itself.

On June 26, 2007, Staff attempted to contact Ms. Judy Morgan, Mount Tipton's Office Manager, who signed the Company's request for extension. Ms. Morgan was unavailable and Staff talked to Mr. Kelly Schwab, President of the Board of Directors. Mr. Schwab indicated that in addition to the rationale listed in Ms. Morgan's July 5, 2007 application for extension, the Company had a general lack of funds, a self-imposed one year moratorium on meter installations and water availability issues due to drought conditions.

As rationale for an extension, Staff does not find Mr. Schwab's additional information compelling. Staff notes that although there could be need for a rate case, Decision No. 67162 itself was a rate case decision docketed only three years ago (August 10, 2004). If the Company is

in need of new rates to fund and train personnel to complete the various analyses necessary in complying with Decision No. 67162 obligations, the production of such a case is clearly the obligation of the Company itself and within its control. Pressures from the moratorium on meter installations and the issue of water availability would not relieve the Company of its obligation to provide appropriate personnel, in terms of numbers, training and skill, to complete Commission requirements. In addition, as discussed in the following section, the Commission has already been through complaint proceedings with the Company.

Prior Commission Complaint on Decision No. 67162

Staff reviewed the docket records of Mount Tipton as part of its work on this application. This review indicated that the Commission has already generated a Complaint against the Company for failure to comply with requirements from this very decision. On December 10, 2004, approximately four months after the issuance of Decision No. 67162, Staff of the Utilities Division filed a complaint (W-02105A-04-0880) against Mount Tipton for failure to comply with compliance items that were due within the first two months after the date of the decision.

The complaint covered issues relating to the filing of revised rate schedules to the Commission, the notification to customers of rates, certification that all standpipes have been secured and metered, the filing of an Off-Site Facilities Hook-Up Fee Tariff, quarterly Hook-Up Fee reports and provision of the Company's general ledger. According to the docket records, the complaint remained open as the Company slowly complied with the individual items over a period of months. Finally, on August 9, 2005, a Procedural Order was filed stating that the Company had made the filings relating to the Complaint and the Complaint was dismissed.

As the Complaint covered compliance items due within one or two months of the decision, none of the compliance requirements included in the current request for extension were yet due. Therefore, the compliance requirements discussed in the current application were not included as a part of the previously filed formal complaint.

Staff Recommendation

Based on the application and all of the above, the Company has not provided a sufficient basis to warrant any type of extension in this matter. In fact, Staff is disturbed at the current non-compliance of Mount Tipton considering the age of Decision No. 67162 and the prior Complaint action relating to the same Decision.

At the same time, Staff continues in its effort to assist small water companies. With that stated, and in an effort to provide the Company with additional time to comply, Staff recommends that the Commission extend the due dates on the above mentioned compliance items to January 31, 2008. However, the Company should be put on notice that approval of this Staff recommendation

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would represent the final extension prior to Staff pursuing an administrative enforcement action against Mount Tipton. This action would likely be in the form of an Order to Show Cause and could include fines against the Company.

EGJ:BKB:lhv

Originator: Brian K. Bozzo

Attachment

SERVICE LIST FOR:
DOCKET NO.

MOUNT TIPTON WATER COMPANY, INC
W-02105A-03-0303

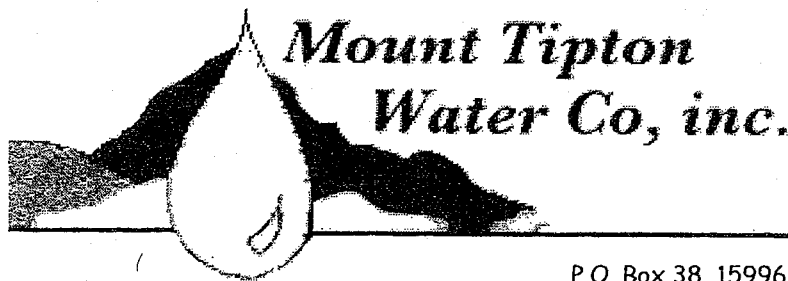
Mount Tipton Water Company, Inc.
Post Office Box 38
15695 Ironwood Drive
Dolan Springs, Arizona 86441

Mr. Christopher C. Kempley
Chief Counsel, Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Mr. Ernest G. Johnson
Director, Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Ms. Lyn Farmer
Chief Administrative Law Judge
Hearing Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Docket No. W-02105A-04-0880
Decision W-02105A-03-0303
67162



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P.O. Box 38, 15996 Ironwood Drive, Dolan Springs, AZ 86441
928-767-3713 Fax: 928-767-3053

June 28, 2007

Docket Control Center
Arizona Corporation Commission
1200 W. Washington
Phoenix, Arizona 85007-2996

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JUL 05 2007

AZ CORP COMM
Director Utilities

RE: Docket No. W-02105A-04-0880
W-02105A-03-0303
Decision 67162

To Whom It May Concern:

We, at Mt. Tipton Water Company, Inc. respectfully request an extension for the following:

We request consideration for an extension for compliance with a completion date of December 30, 2008 for compliance requirement; "...reduce non-account water below 15 percent.....average water loss for two consecutive quarters is below 15 percent."

We request consideration for an extension for compliance with a completion date of December 30, 2008 for compliance requirement; "...water loss can only be reduced to less than 15 percent, but not less than 10 percent.....a detailed cost analysis and explanation demonstrating why water loss reduction to less than 10 percent is not cost effective."

We request consideration for an extension for compliance with a completion date of December 30, 2008 for compliance requirement; "...File quarterly reports based on the calendar year, indicate the quantity of WATER PUMPED AND SOLD each month during the quarter...."

Please accept my apologies for the continuous late reports, and allow me to explain our situation. Late reports, past due bills, inapt office equipment, lack of training and a large turnover in staff make it hard to keep reports current, and accurate. I was hired as an office clerk in September of 2004. The prior employee was fired, and I came into a situation of chaos and no one to train me. The Water II operator handed me a report and when I asked what I was to do with it, he replied, "I don't know, file it I guess!", and I did. The Water II operator who completed these reports each year quit, we hired a new employee who had no training. Reports were never completed. That employee soon quit, and we now have a remote operator, who has very little contact with the office. We are on our fifth office clerk, third field operator and we are now looking for our third water II operator since September of 2004. In August of 2007, the board of directors appointed me as manager of the MTWC. I have tried my best to bring us into compliance, but these reports are nearly impossible for me to complete. I will continue to work towards their completion, and appreciate your consideration in granting us this extension.

Sincerely,


Judy Morgan,
Manager